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**From:**

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Atty. Docket No. RSW920000024US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Glenn Clement Aikens et al  
Serial No.: 09/547,273  
Filed: April 11, 2000  
For: Method, System and Program Product for Managing Network Performance

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Phone: Fax No. 703-872-9306

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office at (703) 872-9306 on the date shown below:

1. Response to Supplemental Notice of Non-Compliant Amendment

pages total 11 (including this cover sheet)

Date: July 13, 2004

Linda Dupont

(Name of person signing certification)

  
(Signature)

**PATENT**  
**IBM Docket No. RSW9-2000-0024US1**

**In the United States Patent and Trademark Office**

**Date:** July 13, 2004  
**In re Application of:** Glenn Clement Aikens et al  
**For:** Method, System and Program Product for Managing Network Performance  
**Serial Number:** 09/547,273  
**Art Unit:** 2142  
**Filed:** April 11, 2000  
**Examiner:** Prieto, Beatriz

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**Response to Supplemental Notice of Non-Compliant Amendment**

Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

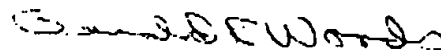
Sir:

This paper is a response to a supplemental Notice of Non-Compliant Amendment mailed July 8, 2004. A previously filed response to a Notice of Non-Compliant Amendment failed to correct errors in the numbering of the claims. This response includes:

- (1) A copy of the supplemental Notice of Non-Compliant Amendment; and
- (2) A corrected copy of Amendment to the Claims.

Applicants' files contain no indication of any prior request to renumber the claims. If a formal request is necessary, the examiner is authorized to renumber the claims as necessary

Respectfully Submitted,



Gerald R. Woods, Reg. No. 24,144  
Attorney of Record

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09/547,273 (RSW9-2000-0024US1)

- 1 -

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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8

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

This communication is in response to amendment filed 4/29/04. Notice of non-compliance amendment and explanation is attached.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
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Paper No

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on \_\_\_\_\_ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

## THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier and as such, the individual status of each claim cannot be identified
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order
  - ☒ E. Other see attached extension form

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/prognotice/gfjicsilver.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Telephone No.

Rev. 10/03

*Supplemental Notice of Non-Compliant Amendment (37 CFR 1.121)*

1. This communication is in response to amendment filed 4/29/04.
2. Applicant is advised that claims as originally filed were **not properly numbered** in ascending numerical order (i.e. they are two set of claims 14 and 15 on page 19).
3. Claims as originally filed where **properly renumbered** leading to claims 1-19.
4. Thereby amendment filed 4/29/04, fails to list all the claims including claims 18-19 and their corresponding status identifier.
5. Correction is required.



B. Prieto  
Patent Examiner  
TC 2100